Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of	)	
	)	
Amendment of Parts 2 and 15 of the	)	
Commission's Rules to Further Ensure	)	ET Docket No. 98-76
That Scanning Receivers Do Not	)	RM-9022
Receive Cellular Radio Signals	)	

REPLY COMMENTS OF MOTOROLA

Motorola hereby submits these replies to comments filed in response to the FCC's Notice of Proposed Rule Making in the above-captioned proceeding.[1] Motorola strongly supports the purpose of this proceeding to strengthen FCC's rules that promote and ensure the privacy of cellular communications. Thus, Motorola urges the FCC to adopt its proposed rules affecting the design, manufacturing and importation of scanning receivers. In so doing, however, Motorola asks that the FCC be mindful that it new rules not inadvertently prohibit legitimate uses of professional test equipment by manufacturers and other land mobile technicians.

In its *Notice*, the Commission recognized that professional test equipment is capable of receiving cellular signals but concluded that "there is a legitimate need for such equipment for purposes such as testing cellular systems and equipment, determining compliance of equipment with FCC technical standards, investigating sources of radio

[1] *Notice of Proposed Rule Making,* ET Docket No. 98-76, released June 3, 1998 [*hereinafter Notice* or *NPRM*].

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frequency interference, and research on the effects of radio frequency exposure."[2] Surmising that it was not "the intent of Congress to ban legitimate test equipment",[3] the Commission proposed to exempt from its definition of scanning receiver, test equipment "that is not marketed or sold to the general public and is used by professional technical personnel in conjunction with the testing of equipment or systems or for scientific investigations."[4]

Some commenters express concern that the FCC's proposals in this regard may create a loophole that will lead to the marketing of pseudo-professional devices to the general public for illegal monitoring activities.[5] These parties urge the FCC to ensure that the test equipment exemption is limited to the maximum extent possible.

Motorola agrees that the FCC should take the necessary steps to prohibit any manufacturer of consumer oriented scanning receivers from marketing such devices as "professional" test equipment. In this regard, Motorola agrees with the general recommendations of Uniden that the FCC monitor the marketing activities of manufacturers to ensure that distribution is indeed limited to professional technical personnel.[6] Motorola also agrees with AT&T's recommendations to modify the definition

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[2] *Notice* at ¶17.

[3] *Id.*

[4] *Notice*, Appendix B, proposed rule Section 15.3(cc).

[5] *See, e.g.*, Comments of Bell Atlantic Mobile, Inc., at 3, Comments of the Cellular Telecommunications Industry Association at 8, Comments of AT&T Wireless Services, Inc. at 8.

[6] Comments of Uniden America Corporation at 7.

of test equipment to make clear that any equipment that makes its way into use by the general public is no longer exempt equipment.[7]

While Motorola supports minimizing the possibility that the text equipment exemption result in increasing illegal scanning activities, we urge the FCC to ensure that its rules not inadvertently outlaw legitimate professional testing activities. While it is clear that manufacturers and technicians involved in the development, installation and maintenance of cellular equipment have need for test equipment to validate compliance with all applicable FCC, ETSI and EIA standards, other land mobile professionals not necessarily associated with the cellular industry have similar needs. The following examples depict legitimate uses of test equipment tunable to cellular frequencies by technical personnel not necessarily affiliated with cellular carriers or manufacturers:

- An 866 MHz two-way radio transceiver designed for the public safety market may use a 21.4 MHz intermediate frequency with "high side" injection. The local oscillator of such a transceiver would operate at 887.4 MHz which, of course, falls within the cellular base transmit band. Manufacturers of the public safety radio, and field service personnel, need to be able to tune a receiver to the local oscillator frequency to ensure that it is not radiating at excessive energy levels that could possibly interfere with cellular subscriber equipment
- Sideband noise from 851 MHz land mobile base station transmitters can cause interference to cellular base stations receiving at 848 MHz. Land mobile radio field professionals, such as antenna site managers, should be able to tune to cellular frequencies in order to locate, identify, or even prevent, this potential interfering signal.
- Land mobile radio service centers often receive reports from cellular carriers that a Morse code callsign from a land mobile repeater has been observed on a cellular mobile transmit frequency near 836 MHz. Under such circumstances, the land mobile technician needs the ability to tune to that cellular frequency in order to determine whether the interfering

[7] Comments of AT&T Wireless Services, Inc. at 8.

signal was caused by a intermodulation mix of land mobile transmitters operating at 851 and 866 MHz.

These are but a few of the instances that parties not necessarily affiliated with a cellular carrier have need for professional test equipment capable of tuning to cellular frequencies. With ever increasing uses of the 800 MHz and 900 MHz frequency bands, detection and prevention of intermodulation interference effects becomes ever more challenging requiring the combined efforts of all licensees and manufacturers. As indicated above, test equipment is critical for the resolution of these cases.

In conclusion, Motorola requests that the FCC remain mindful of the wide variety of legitimate uses of professional test equipment by manufacturers and technical field personnel and to take no action that reduces their ability to provide American businesses and consumers with the most advanced communications services in the world.

Respectfully submitted

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July 27, 1998